

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Debra Morales Ruiz, an individual, for  
herself and on behalf of and as pending  
Personal Representative for estate of  
Alexander Chavez, et al,

Plaintiffs,

v.

Maricopa County, et al.,

Defendants.

No. CV-23-02482-PHX-SRB (DMF)

**ORDER**

**I. Procedural History**

On August 8, 2023, Plaintiff Debra Morales Ruiz, for herself and on behalf of and as pending personal representative of the Estate of Alexander Chavez, and Plaintiff Alex George Chavez filed a Complaint (Doc. 1-1 at 15-41)<sup>1</sup> in the Superior Court of Maricopa County, Arizona, against Maricopa County; the Maricopa County Sheriff's Office; Maricopa County Correctional Health Services; Brandon Smith; Paul Penzone; Thomas Tegeler; Kyle Moody; Arturo Dimas; Tyler Park; Gerardo Magat; Daniel Hawkins, Jr.; Javier Montano; James Dailey; Trevor Martin; Gregory Hertig; John Chester; Jorge Espinosa, Jr.; Morgan Rainey; Stefanie Marsland; and multiple Doe Defendants. On November 29, 2023, Defendants Maricopa County, Maricopa County Sheriff's Office, Montano, Penzone, Dimas, Park, Hawkins, Smith, Moody, Hertig, Chester, Marsland,

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<sup>1</sup> The citation refers to the document and page number generated by the Court's Case Management/Electronic Case Filing system.

1 Rainey, and Martin (“the Removing Defendants”) filed a Notice of Removal and removed  
2 the case to this Court.

### 3 **II. Removal**

4 A state court defendant may remove to federal court any civil action brought in the  
5 state court over which the federal district courts would have original jurisdiction. 28 U.S.C.  
6 § 1441(a). In their Complaint, Plaintiffs allege, among other things, violations of the  
7 Eighth and Fourteenth Amendments. This Court’s jurisdiction extends to such claims. *See*  
8 28 U.S.C. § 1331 (a federal court has original jurisdiction “of all civil actions arising under  
9 the Constitution, laws, or treaties of the United States”). The Notice of Removal was filed  
10 within 30 days of service on the Removing Defendants,<sup>2</sup> and the Removing Defendants  
11 indicate that the remaining Defendants have not been served. It therefore appears that  
12 removal was proper.

### 13 **IT IS ORDERED:**

14 (1) Defendants Maricopa County, Maricopa County Sheriff’s Office, Montano,  
15 Penzone, Dimas, Park, Hawkins, Smith, Moody, Hertig, Chester, Marsland, Rainey, and  
16 Martin must answer the Complaint or otherwise respond by appropriate motion within the  
17 time provided by the applicable provisions of Rule 81(c)(2) of the Federal Rules of Civil  
18 Procedure or within 14 days of the filing of this Order, whichever is later.

19 (2) Plaintiff must either serve or obtain a waiver of service from each unserved  
20 Defendant.

21 (3) If Plaintiff does not either obtain a waiver of service of the summons or  
22 complete service of the Summons and Complaint on a Defendant within 90 days of the  
23 filing of the Notice of Removal or within 60 days of the filing of this Order, whichever is  
24 later, the action may be dismissed as to each Defendant not served. Fed. R. Civ. P. 4(m).


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28 <sup>2</sup> Removing Defendants indicate that service was effected on Maricopa County, the  
first Defendant to be served, on October 30, 2023.

(5) This matter is **assigned to the standard track** pursuant to Rule 16.2(b)(3) of the Local Rules of Civil Procedure.

  
Susan R. Bolton  
United States District Judge